IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

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(1) R.S.A. No. 364 of 1993

Harbhej Singh and others.

..... Appellants

Versus

Smt. Gurbachan Kaur and others.

..... Respondents

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(2) R.S.A. No. 365 of 1993

Amrik Singh and others.

..... Appellants

Versus

Smt. Rachhpal Kaur and others.

..... Respondents

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CORAM: Hon'ble Mr.Justice Mahesh Grover

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Date of Decision: 29.11.2006

Present: Ms.Divya Sharma, Advocate for the appellants.
Shri C.M. Munjal, Advocate for respondent no.1 in R.S.A. No. 364 of 1993 and for the respondents in R.S.A.No.365 of 1993.

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Mahesh Grover,J.

This judgment shall dispose of the above mentioned two Regular Second Appeals as they are governed by common set of facts.

On 23.5.1985, the defendants-appellants allegedly murdered Harbhajan Singh and Baldev Singh within the vicinity of village Hamad, Tehsil and District Ferozepur. A criminal case was registered against them. The trial Court convicted all of them. However, an appeal against their conviction resulted in acquittal by this Court. On further appeal, the Hon'ble Supreme Court held the appellants guilty and convicted them for the murder of Harbhajan Singh and Baldev Singh.

The plaintiffs, who are dependents of said Harbhajan Singh and Baldev Singh filed suits for damages. The trial Court decreed the suits vide separate judgments and decrees dated 21.9.1990 and granted damages of Rs.36000/- to Smt. Gurbachan Kaur widow of Harbhajan Singh and a sum of Rs.1,29,600/- was given to Smt. Rachhpal Kaur widow of Baldev Singh and his four minor children.

Feeling aggrieved, the defendants-appellants filed separate appeals, whereas the plaintiffs-respondents filed cross objections. The lower Appellate Court dismissed the appeals and disposed of the cross objections by awarding interest at the rate of 14% per annum on the decretal amount from the date of decree till realisation.

I have heard learned counsel for the parties and perused the record.

The sole contention raised by the learned counsel for the appellants is that the compensation awarded to the plaintiffs-respondents is excessive; that the interest at the rate of 14% per annum on the decretal amount could not have been awarded and that, at best, according to the

provisions of the Code of Civil Procedure (for short, `CPC'), only 6% interest ought to have been given after the passing of the decree.

Admittedly, both the deceased persons were agriculturists. The trial Court assessed their gross income at Rs.800/- per month. The age of Harbhajan Singh was held to be 50 years at the time of his death, whereas that of Baldev Singh was found to be 30 years. The dependency in case of plaintiff/respondent-Gurbachan Kaur was assessed at Rs.6000/- per annum. The multiplier of `6' was adopted to arrive at a figure of Rs.36000/- in her case. In case of plaintiffs-/respondents-Rachhpal Kaur and four others, the dependency was assessed at Rs.600/- per month and a multiplier of `18' was applied to arrive at a figure of Rs.1,29,600/-.

In my opinion, by no stretch of imagination, the amount of compensation can be termed to be excessive. Rather, it appears that the multiplier of `6' in the case of Harbhajan Singh-deceased, who was 50 years of age, was on lower side.

The Courts below while quantifying the damages on account of the death of the afore-stated persons relied upon the multiplier method to arrive at a just figure of compensation. The Hon'ble Supreme Court in Lata Wadhwa and others Versus State of Bihar and others, AIR 2001 S.C. 3218 has upheld the principle of assessing compensation and damages in accident cases on the basis of multiplier method. Though the instant cases do not arise from an accident, yet, the same pertain to damages on account of unnatural deaths which were the result of a violent act and the principle of assessing compensation and damages can safely be resorted to in such like

cases as well. The approach of the Courts below, therefore, cannot be faulted with.

In the cases of both the deceased persons, the dependency has been assessed at Rs.500/- and Rs.600/- per month, respectively, which cannot be termed to be excessive. There is no evidence regarding the income which the deceased would have been earning, but even if they had been assessed as Labourer, the income ought to have been more than what has been assessed. In any eventuality, the Courts have to travel in the realm of conjectures to arrive at a just figure of compensation depending on the facts and circumstances of each case. Therefore, the compensation so awarded by the Courts does not warrant any interference as no illegality or irregularity has been shown.

The next contention as raised by the learned counsel for the appellants was that the rate of interest @ 14% could not have been awarded and particularly after passing of the decree only 6% could have been awarded in accordance with the provisions of Section 34 of the CPC. The deceased-Harbhajan Singh was 50 years of age and the multiplier of only `6' was applied which apparently is on lower side. Had the Courts below applied the correct multiplier by increasing it, the compensation would have also been up proportionately and that would have off-set the slightly higher rate of interest awarded for the period during which the suits were pending, taking the probable rate of interest prevailing at that time, i.e. 12% per annum. Similarly, keeping in view the number of dependents of Baldev Singh-deceased, the deduction of 1/4th from the total income assessed was

on higher side and the award of interest at the rate of 14% per annum, therefore, compensates the amount deducted on account of personal expenses.

Besides, the word `may' as occurring in Section 34 of the CPC confers a discretion on the Court to award or not to award interest or to award interest at such rate as it deems fit. Such interest, so far as future interest is concerned, may commence from the date of the decree and may be made to stop running either with payment or with such earlier date as the Court thinks fit.

In Central Bank of India Versus Ravindra and others, (2002) 1 S.C.C. 367 the Apex Court has observed as under:-

> "While decreeing a suit if the decree be for payment of money, the court would adjudge the principal sum on the date of the suit. The court may also be called upon to adjudge interest due and payable by the defendant to the plaintiff for the pre-suit period which interest would obviously be other than such interest as has already stood capitalized and having shed its character as interest, has acquired the colour of the principal and having stood amalgamated in the principal sum would be adjudged so. The principal sum adjudged would be the sum actually loaned plus the amount of interest on periodical rests which according to the contract between the parties or the established banking practice has stood capaitalised. Interest pendente lite and future interest (i.e. interest post-decree not

exceeding 6 per cent per annum) shall be awarded on such principal sum i.e. the principal sum adjudged on the date of the suit. It is well settled that the use of the word "may" in Section 34 confers a discretion on the court to award or not to award interest or to award interest at such rate as it deems fit. Such interest, so far as future interest is concerned may commence from the date of the decree and may be made to stop running either with payment or with such earlier date as the court thinks fit."

No doubt, Section 34 of the CPC stipulates that post-decretal interest is not to exceed 6%, but keeping in view the peculiar facts of the instant case where two male earning members of the same family have been ruthlessly murdered and the suits are for damages on account of the aforesaid heinous crime committed by the appellants and the fact that the cause of action for filing the instant suits did not arise from a tortious act but have their genesis seeped in a criminal act borne of a senseless act and a devious mind, the result of which can only be penal. So, precisely for these reasons, I do not find any illegality in the grant of 14% interest by the lower Appellate Court as the judgments impugned herein have rendered substantial justice. Strict interpretation of laws and justice based on technicalities can be self-defeating in a given set of circumstances.

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Taking into the totality and the peculiarity of the circumstances as detailed above, there is no reason to interfere with the findings of the Courts below. Besides, no substantial question of law has been shown to have arisen in the appeals.

Consequently, both the appeals, being devoid of any merit, are dismissed.

November 29,2006 (Mahesh Grover)
"SCM" Judge